

THE OFFICE OF CONTRACTING AND PROCUREMENT

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Chief Procurement Officer of the District of Columbia, pursuant to authority granted by 23 U.S.C. §101, 23 CFR §636, sections 202 and 204 of the District of Columbia Procurement Practices Act of 1985 ("PPA"), effective February 21, 1986, D.C. Law 6-85, D.C. Official Code §§ 2-302.02 and 2-302.04 (2001)), and Mayor's Order 2002-207 (dated December 18, 2002), hereby gives notice of the adoption of the following emergency rules to amend Chapter 16 of Title 27 of the District of Columbia Municipal Regulations (Contracts and Procurements). The rulemaking is intended to add a section of Chapter 16 concerning solicitations for design and construction of the 11th Street Bridge utilizing a two-step procurement process. The purpose of this two-step process will be to select a contractor whose offer will provide the best value to the District. Similar rulemaking was recently proposed concerning solicitations for design, development, construction and management of the Anacostia Gateway Government Center.

In the first step, prospective contractors will be evaluated based on statements of their qualifications to perform the design and construction in order to enable the District to determine whether or not they are qualified to respond to a request for competitive sealed proposals ("RFP") to be issued subsequently under Chapter 16. The District's request for qualifications ("RFQ") serves to maximize competition and dialogue between the District and contractor community as well as to facilitate determination of the design and timing of the project and corresponding issuance of the RFP. The District may also award a stipend to certain unsuccessful offerors that have submitted responsive proposals complying with the conditions of the RFP.

The 11th Street Bridge Design-Build project will replace the existing structurally obsolete bridges across the Anacostia River. New ramps east of the river will connect both directions of the Anacostia Freeway with the cross-river bridges. This will eliminate the need for freeway traffic to cut through neighborhood streets and return to the freeway. Separate bridges for arterial traffic and freeway traffic will also eliminate the dangerous merging and weaving maneuvers that are currently required when local traffic is forced to use the freeway to cross the river. The project was authorized in 2006 and an environmental impact statement was recently completed.

Without these emergency rules, OCP will not be able to conduct a two-step process to select a contractor to design and construct the 11th Street Bridge project. Adoption of these

emergency rules to amend Chapter 16 is thus necessary for the immediate preservation of the public safety or welfare, in accordance with District law as codified at D. C. Official Code § 2-505(c) (2001). These emergency rules will remain in effect for up to one hundred twenty (120) days from the date of adoption or upon publication of a Notice of Final Rulemaking in the *D.C. Register*, whichever occurs first. The Chief Procurement Officer gives notice of intent to take final rulemaking action in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*. The Chief Procurement Officer will submit the rules to the Council of the District of Columbia for a sixty (60) day period of review pursuant to subsection 205(b) of the PPA (D.C. Official Code § 2-302.05(b)), and will not take final rulemaking action until completion of the 60-day review period or Council approval of the rules by resolution before the end of the review period.

CHAPTER 16

PROCUREMENT BY COMPETITIVE SEALED PROPOSALS

Chapter 16 is amended by adding a new section 1631 to read as follows:

1631 SOLICITATIONS FOR DESIGN AND CONSTRUCTION OF THE 11TH STREET BRIDGE PROJECT

1631.1 Notwithstanding the provisions of § 1602, the purpose of this section is to adopt a two-step procurement method to be used for procurement of a contractor to design and construct the proposed 11th Street Bridge. The first step will be a request for qualifications (RFQ) to enable the contracting officer to determine which prospective contractors are qualified to receive requests for proposals (RFP's) and submit responses to the RFP's, based on financial and professional responsibility criteria established by the contracting officer for pre-qualification of a prospective contractor to design and construct the 11th Street Bridge.

1631.2 The District shall conduct the two-step selection process as follows:

- (a) The first step consists of a request issued by the Office of Contracting and Procurement (OCP) for qualifications from a firm or combination of firms that has expertise, ability and entrepreneurship (i) who possess the expertise to assemble the labor and capital necessary for the completion of the design and construction of the bridge (as described by the District), (ii) to manage all components of the design and construction of a project of this size, (iii) to construct and complete the proposed project in a timely manner while serving the District's stated policy objectives; and
- (b) The second step of the two-step process involves the submission of proposals in response to an RFP issued by OCP to up to five offerors determined to be the most qualified in the first step. The only offerors who may submit proposals in response to the RFP in the second step are those offerors that (i) responded to the RFQ, and (ii) were determined to be the most qualified by the contracting officer.

- 1631.3 The contracting officer shall give public notice of the RFQ for design-build of the 11th Street Bridge project in accordance with Chapter 13.
- 1631.4 The contracting officer shall utilize the two-step process set forth in section 1631.2 above on forms prescribed by the Director.
- 1631.5 The first step of the process shall consist of an RFQ inviting interested prospective contractors to respond in writing with a statement of their qualifications to perform the required services, including financial and professional responsibility information. The RFQ shall provide, at a minimum:
- (a) A detailed description of the proposed project site and the project;
 - (b) The District's intent of the project and the design;
 - (c) The selection process, schedule and criteria to be used by the District in determining which prospective contractors are qualified;
 - (d) Submission requirements and evaluation criteria that will be used to determine whether each prospective contractor is qualified; and
 - (e) A statement that only proposals from up to five offerors determined most qualified in the first step pursuant to subparagraphs (c) and (d) above will be selected to submit proposals in the second step.
- 1631.6 The contracting officer may conduct oral or written discussions with all prospective contractors who submitted responses to the RFQ.
- 1631.7 The contracting officer may provide the information submitted by all prospective contractors in response to the RFQ to an evaluation panel who may recommend to the contracting officer, based upon their analysis of the information according to the criteria set forth in the RFQ, whether or not the prospective contractor is among the up to five most qualified to proceed to the second step.
- 1631.8 The contracting officer shall determine the financial and professional responsibility of each prospective contractor that responds to the RFQ, and whether the prospective contractor is among the up to five most qualified to proceed to the second step.
- 1631.9 The second step of the selection process shall follow the competitive sealed proposal procedures consistent with the requirements of this chapter, except as follows:
- (a) The contracting officer shall issue an RFP only to up to five of the top-ranked offerors who have been determined most qualified in the first step;
 - (b) The contracting officer shall ensure that an independent cost/benefit analysis of each proposal be completed; and
 - (c) The RFP shall not be advertised in newspapers or publicly posted.
- 1631.10 The contracting officer, in his discretion, may pay a stipend to up to four unsuccessful offerors that have submitted responsive proposals complying with the

conditions of the RFP to compensate them for a portion of their proposal development costs and to encourage competition. The contracting officer shall determine the amount of the stipend(s). If an unsuccessful offeror accepts a stipend, the District shall be authorized to retain the right to use ideas and information from the design documents and technical drawings in its proposal.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments, in writing, to the Chief Procurement Officer, 441 4th Street, 700 South, Washington, D.C. 20001. Comments must be received no later than thirty (30) days from the date of publication of this notice in the *D.C. Register*. A copy of this proposed rulemaking may be obtained at the same address.

METROPOLITAN POLICE DEPARTMENT

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Chief of the Metropolitan Police Department, pursuant to her duties to interpret, implement and enforce the Firearms Regulations Control Act of 1975 (Act), effective September 24, 1976 (D.C. Law 1-85; D.C. Official Code § 7-2501 *et seq.*)(2001), the Second Firearms Control Emergency Amendment Act of 2008, effective September 16, 2008 (D.C. Act 17-502; 55 DCR 9904) and any substantially similar temporary or permanent acts, hereby gives notice of the adoption on an emergency basis of an amendment to Chapter 23 (Guns and Other Weapons) of Title 24 (Public Space and Safety) of the District of Columbia Municipal Regulations (DCMR). The rulemaking amends subsection 2300.3, adds new sections 2320 and 2321 - Procedures and Requirements for Registration of a Pistol for the Purpose of Self-Defense Within Applicant's Home and Qualifications and Procedures to Obtain a Firearms Dealer's License - and adds definitions to section 2399.

Emergency rulemaking action is necessary to implement the provisions of the Second Firearms Control Emergency Amendment Act of 2008, effective September 16, 2008 (D.C. Act 17-502; 55 DCR. 9904). Emergency rulemaking will immediately set the qualifications and procedures for registering firearms and for obtaining a license to sell such firearms. Immediate action is required to bring the District into compliance with the emergency legislation which was passed in response to the Supreme Court's decision in *District of Columbia v. Heller*, 554 U.S. ____ (2008).

This emergency rulemaking was adopted on September 18, 2008, and became effective immediately. The emergency rulemaking will expire on January 16, 2009, or upon publication of a Notice of Final Rulemaking in the D.C. Register, whichever occurs first.

The Chief also gives notice of her intent to take final rulemaking action to adopt the proposed rulemaking in not less than thirty (30) days from the date of publication of this notice in the D.C. Register.

Section 2300.3 of Chapter 23 of Title 24 DCMR is amended to read as follows:

2300.3 This section shall not apply to the discharge of firearms or explosives in a performance conducted in or at a regular licensed theater or show, or to a discharge of a registered firearm while it is being used to protect against a reasonably perceived threat of immediate harm to a person in the registrant's home.

Chapter 23 of Title 24 DCMR is amended to add sections 2320, 2321, and 2322 to read as follows:

**2320 PROCEDURES AND REQUIREMENTS FOR REGISTRATION OF
A PISTOL FOR THE PURPOSE OF SELF-DEFENSE WITHIN
APPLICANT'S HOME**

2320.1 In addition to satisfying all other firearms registration requirements in Chapter 23 of this Title, an applicant for a registration certificate for a pistol to be used for the purpose of self-defense within that person's home shall comply with all the procedures and requirements of this section. In the event of any irreconcilable conflict between this section and any other regulations regarding the registration of a pistol, this section controls.

2320.2 The Director may register any pistol of any caliber or shot capacity so long as the pistol is not a machine gun as that term is defined in section 101(10) of the Firearms Control Act of 1975 (D.C. Law 1-85; D.C. Official Code § 7-2501.01(10)).

2320.3 An applicant seeking to register a pistol he or she will purchase from a firearms dealer pursuant to this section shall:

- (a) Acquire the Firearm Registration application (PD 219) either in person at the Firearms Registration Section at Metropolitan Police Department (MPD) headquarters or by mailing a request with a self-addressed, stamped envelope to Firearms Registration Section, Metropolitan Police Department, 300 Indiana Avenue, NW, Washington, DC 20001;
- (b) Present the Firearm Registration application to a licensed firearm dealer, whose assistance is necessary to complete the application;
- (c) Appear in person at MPD headquarters to take these steps:
 - (1) Report to the Firearms Registration Section with the completed Firearm Registration application, acquire two fingerprint cards, and provide the following:
 - (A) Two passport-sized facial photos;
 - (B) A valid driver's license or a letter from a physician attesting that the applicant has vision as least as good as that required for a driver's license; and
 - (C) Residency verification, such as a District of Columbia driver's license or identification card, a current rental agreement, or a deed to property that includes a home;

- (2) Complete a Firearm Registration test with at least a 75% proficiency;
 - (3) If successful on the test, pay all applicable and reasonable fees required by the Chief at the MPD cashier, including thirty five dollars (\$35) for fingerprinting and thirteen dollars (\$13) for a firearm registration;
 - (4) Present a fee receipt and the two fingerprint cards to the MPD fingerprint examiner, and submit to fingerprinting; and
 - (5) Return to the Firearms Registration Section with one fingerprint card for the office file and the other for submission to the Federal Bureau of Investigation (FBI) for fingerprint analysis for the purpose of a criminal record check;
- (d) Await notification by mail to the address on the Firearm Registration application of whether all statutory and regulatory requirements for registration have been satisfied;
 - (e) Upon notification that all statutory and regulatory requirements for registration have been satisfied, return to the Firearms Registration Section to complete the registration process and obtain an MPD seal on the completed Firearms Registration certificate;
 - (f) Present the sealed Firearm Registration application to the licensed firearms dealer and take delivery of the applicant's pistol pending completion of a ballistic identification procedure, or, in the case of a purchase from a firearms dealer located in another jurisdiction, have that firearms dealer transport the applicant's pistol to a licensed firearms dealer in the District, where the applicant will take delivery of the pistol pending completion of a ballistic identification procedure;
 - (g) Transport the pistol to the Firearms Registration Section for completion of a ballistic identification procedure between the hours of 9:00 AM through 5:00 PM, Monday through Friday, pay a ballistic identification fee of twelve dollars (\$12); and
 - (h) Retrieve the registered pistol from the Firearms Registration Section and transport it to the applicant's home.

2320.4

For a period of six months after the effective date of this section, an applicant seeking to register an unregistered pistol already in his or her

possession pursuant to this section shall follow the procedure laid out in paragraphs (g), (a), (c), (d), (e), and (h) of section 2320.3, in that order.

2320.5 An applicant seeking to register a pistol legally possessed in another jurisdiction pursuant to this section shall follow the procedure laid out in paragraphs (g), (a), (c), (d), (e), and (h) of section 2320.3, in that order. If the applicant does not transport the pistol immediately to the Firearms Registration Section upon bringing it into the District, the applicant shall contact the Firearms Registration Section by calling 202-727-4275, providing notification that a pistol from another jurisdiction has been brought into the District, and then begin the application process within 48 hours of such notification.

2320.6 Failure to comply with the requirement to bring the pistol for a ballistics identification procedure will result in the denial of the registration application or revocation of the registration for that pistol and may subject the owner of the pistol to possible criminal charges.

2320.7 In the event of the loss, theft, or destruction of the registration certificate or of a registered pistol, a registrant shall immediately file a police report and shall also:

- (a) Immediately notify the Firearms Registration Section in writing of the loss, theft, or destruction of the registration certificate or of the registered pistol (including the circumstances, if known) upon discovery of such loss, theft, or destruction; and
- (b) Immediately return to the Firearms Registration Section the registration certificate for any firearm which is lost, stolen, or destroyed.

2320.8 When permitted under this section to transport a pistol between two places, a registrant must go directly between those places without deviation. When the transport is within the District, the pistol shall be transported unloaded and securely wrapped in a package, with the package carried in open view. When the transport is from another state into the District, transport should be in accordance with 18 U.S.C. § 926a.

2321 QUALIFICATIONS AND PROCEDURES TO OBTAIN A FIREARMS DEALER'S LICENSE

2321.1 A person is eligible to become a licensed dealer of firearms if that person:

- (a) Is eligible to register a firearm under this Chapter;
- (b) Is eligible under federal law to engage in such business; and

- (c) Has not previously violated any statutory duty of a licensed dealer if that person earlier was a licensed dealer.
- 2321.2 The license issued to a firearms dealer shall be valid for a period of not more than one year from the date of issuance.
- 2321.3 To deal firearms lawfully, the holder of a firearms dealer's license must also comply with any other license or zoning procedures required by law, including having a certificate of occupancy and a basic business license in accordance with applicable provisions in the District of Columbia Municipal Regulations.
- 2321.4 Prior to applying to the Firearms Registration Section for a firearm dealer's license, an applicant must first obtain a Federal Firearms Dealer's License issued by the Bureau of Alcohol, Tobacco, and Firearms.
- 2321.5 Each application for a dealer's license and renewal shall be made on a form prescribed by the Chief, shall be sworn to or affirmed by the applicant, and shall contain:
 - (a) All information required by section 203 of the Firearms Control Act of 1975 (D.C. Law 1-85; D.C. Official Code § 7-2502.03);
 - (b) The address where the applicant conducts or intends to conduct his/her business;
 - (c) Whether the applicant, prior to September 24, 1976, held a license to deal in deadly weapons in the District; and
 - (d) Such other information as the Chief may require including, but not limited to, fingerprints and photographs of the applicant.

Section 2399 of Chapter 23 of Title 24 DCMR is amended to read as follows:

2399 DEFINITIONS

- 2399.1 When used in this chapter, and in forms prescribed under this chapter, where not otherwise distinctly expressed or manifestly incompatible with the intent of the Act or this chapter, the following terms shall have the meanings ascribed:

Ballistics identification procedure – a process, approved by the Chief, undertaken to identify markings unique to a particular firearm or the ammunition used by the firearm.

Business premises - the property on which a licensed, deadly weapons dealer's business is or will be conducted.

Chief - the Chief of the Metropolitan Police Department.

Dealer - any person engaged in the business of buying, selling, or otherwise dealing in firearms, ammunition, or destructive devices at wholesale or retail; any person engaged in the business of repairing, testing, or analyzing firearms; any person engaged in the business of making or fitting special barrels, stocks, or trigger mechanisms for firearms or destructive devices; or any person repairing, testing, analyzing, or making any destructive device or ammunition.

Director - the commanding officer or acting commanding officer of the Police Business Services Division of the Metropolitan Police Department or their delegates.

Explosive or explosives - any chemical compound or mechanical mixture that contains any oxidizing and combustible units, or other ingredients, in such proportion, quantities, or packing that an ignition by fire, friction, concussion, percussion, or detonator, or any part of the compound or mixture, may cause a sudden generation of highly heated gasses that results in gaseous pressures capable of producing destructive effects on contiguous objects or of destroying life or limb. (Art. 9, § 3 of the Police Regulations)

Firearms Registration Section - a part of the Police Business Services Division of the Metropolitan Police Department, located in 300 Indiana Avenue, N.W., Washington, D.C. 20001

Home - the principal place of residence of an individual in the District and limited to the interior of a house, condominium unit, cooperative unit, apartment, houseboat, or a mobile home, so long as that structure is not capable of unassisted movement. The term home does not include any common areas of any condominium unit, cooperative unit, or apartment.

Law enforcement officer - any person authorized by a unit of government to carry a firearm on public space and who is responsible for, and under a duty to, detect crimes and apprehend offenders. A law enforcement officer is not a commissioned special police officer or the equivalent.

Licensed dealer - a deadly weapons dealer licensed under the Act and this chapter.

Pistol -- any firearm originally designed to be fired by use of a single hand.

Supervisor - the person in charge of the Firearms Registration Section.

All persons interested in commenting on the subject matter of this proposed rulemaking action may file comments, in writing, with: Terrence D. Ryan, General Counsel, Metropolitan Police Department, Suite 4125, 300 Indiana Avenue, N.W., Washington,

D.C. 20001. Comments must be received no later than thirty (30) days after the date of publication of this notice in the D.C. Register. Copies of this proposal may be obtained, at cost, by writing to the above address.